

Tax issues faced by immigrant citizens from Asia

The two of us would like to bring your attention to certain tax and reporting issues being faced by immigrant citizens, especially (1) taxation of foreign income with no US source and (2) management of family obligations in the country of origin.

We are citizens of the USA, having legally emigrated as adults from Sri Lanka. We are currently resident in both the USA and Sri Lanka due to work and family reasons. While we would be happy to reside fully in the USA, family obligations make that impossible.

One of us is an only child and has to spend time in Sri Lanka to take care of a widowed elderly parent (mother) recently diagnosed with a serious illness. Facilities that may be available in the USA are less readily obtainable in Sri Lanka and close presence of a caregiver, preferably a family member, is crucial so that appropriate action can be taken quickly in an emergency. In addition, we have to manage home finances since it is difficult for the mother to do so. These measures are being taken under the advice of the mother's doctor. The other one of us had a somewhat similar situation until his mother passed away recently.

This situation is causing a tax and reporting burden in a number of ways. Here are some:

(1) Double taxation: Different countries impose taxes differently. For example, in Sri Lanka, savings are taxed at a low rate (8%) and consumption is taxed at a high rate (can be as high as 100% for "luxury" items). For us, the low rate for savings automatically triggers US taxes. Also taxes in funds or grouped assets are taxed differently. All this causes inadvertent double taxation (e.g., sales tax cannot be reported as Foreign Tax Paid), as well as unfair taxation on moneys (e.g., old savings) that have no US source.

(2) Taxation of foreign income with no US source: One of us was given access by her mother to some funds when she was hospitalized, so that it would be available to her to cash quickly in the event of an emergency. Since it was put in an account in her name, we had to pay US taxes on the interest as per Item (1) above, even though it is not ours and the money had no US source. Therefore, against doctor's advice, we were reluctantly forced to revert the account back to the mother. And now we are all very scared as to how we would handle the finances if she (the mother) is again unable to do so.

(3) Taxation of foreign income with no US source: Both of us have bank accounts and investments in Sri Lanka which come from parents. It is customary in Asia for parents to share money and property with children. These are from sources entirely from within Sri Lanka with absolutely no US source. It is unfair for US taxes to be levied on such items.

(4) Cost: Many tax accountants (and even the IRS help line) are uncertain as to how to deal with overseas tax issues and have to research to understand details. Still, uncertainties remain as it is like trying to make a coherent picture out of 2 vastly different jigsaw puzzles. Yet, astronomical fines are threatened on a layman for even an innocent mistake. We pay an accountant a substantial fee to attend to our tax matters due to these concerns. It is also time-consuming as, for example, Sri Lankan banks do not routinely provide details on interest for tax purposes as Sri Lankan taxes are withheld automatically.

(5) Right to privacy: Our mothers' conditions necessitated us being granted Power of Attorney in order to manage home finances and to act in an emergency, as stated above. This is being reported as per FBAR, although doing so violates our mothers' right to privacy.

We are happy to hear that Tax Reform is being discussed. We hope that issues faced by immigrants like us are discussed. We feel that so far they have been ignored. Please consider Residence Based Taxation.